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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,952	07/24/2001	Duck Chul Hwang	1567.1015	3638

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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON, DC 20005

EXAMINER

WEINER, LAURA S

ART UNIT	PAPER NUMBER
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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In re application of HWANG et al.
Serial no. 09/910952
Filed: July 24, 2001
For: ELECTROLYTE FOR A
LITHIUM-SULFUR BATTERY AND A LITHIUM
SULFUR BATTERY USING THE SAME

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: DECISION
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This is a decision on the PETITION FILED UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION of September 17, 2007.

After filing an RCE on April 24, 2007, the examiner submitted a non-final office action including only 35 U.S.C. 112, first and second paragraph rejections. The examiner noted there was no support the instantly claimed lithium in the positive electrode and claims also lacked support for the sulfur in the negative electrode. Applicant responded by amending claims 4, 11 and 12 to include the positive electrode including sulfur and the negative electrode including lithium. Applicant also amended claim 11 to further define "first solvent" having a polarity sufficient to dissolve Li_2Sn ($n = 1, 2, 4, 6, 8$). The examiner then finally rejected claims 4, 8-13, 29, 34 and 35. The examiner also indicated allowability of claims 14, 16, 17, 36-39.

Petitioner alleges that the finality is improper because the finality was not necessitated by amendments to the claims.

DECISION

The MPEP at 706.07 states:

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Applicant submitted claim amendments to overcome the rejections under 35 U.S.C., 112, first paragraph. It could not have been predicted that applicant would amend claims in the manner that was done. Applicant has limited the first solvent to have a sufficient polarity high enough to dissolve Li_2Sn ($n = 1, 2, 4, 6, 8$). This feature was not previously claimed. Applicant also amended claims 4, 11 and 12 to include the positive electrode including sulfur and the negative electrode including lithium. Therefore, the final rejection was the result of amendments to claims 4, 11 and 12.

The petition is **DENIED**.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

STEIN, MCEWEN & BUI
1400 EYE STREET
SUITE 300
WASHINGTON, D.C. 20005